



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 3, 2019
MOAHR Docket No.: 19-008094
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 29, 2019, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Shanita Gaines, Assistance Payments Worker and Hearings Facilitator.

Respondent's Exhibits 1-10 were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was a Food Assistance Program benefit recipient.
2. On [REDACTED], 2019, Petitioner applied for State Emergency Relief (SER).
3. In the application, Petitioner indicated that she had no dependent care expenses, no medical expenses, no employment income, no self-employment income and no additional income.

4. The Department caseworker sent Petitioner a Verification Checklist for her food benefits which was due on January 14, 2019, and her State Emergency Relief application, which was due January 9, 2019, requesting proof of loss of employment.
5. The Department caseworker also sent an employment verification form as well.
6. Petitioner failed to return proof of her loss of employment as requested.
7. Petitioner sent in her check stubs from December 2018 and January 2019 which were budgeted.
8. On January 11, 2019, Petitioner was sent a Notice of Case Action for her SER approval and a Notice of Case Action showing a decrease in her FAP benefits.
9. On July 20, 2019, the Department caseworker sent Petitioner a Notice of Case Action for denial of Food Assistance Program benefits for failure to return the requested proof of loss of employment.
10. On January 26, 2019, Petitioner filed a request for hearing to contest the Department's negative action.
11. On August 8, 2019, the Michigan Office of Administrative Hearings and Rules received a hearing summary and attached documents.
12. Petitioner testified on the record that she worked until May 2019, at which time she left the job.
13. Petitioner testified that she put on her January 2, 2019, application that she wasn't working because she didn't feel like filling that part out.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Department must establish its case by a preponderance of the evidence on the record. A preponderance of evidence is evidence which is of a greater weight or more convincing than evidence offered in opposition to it. It is simply that evidence which outweighs the evidence offered to oppose it *Martucci v Detroit Commissioner of Police*, 322 Mich 270; 33 NW2d 789 (1948).

Pertinent Department policy dictates:

All Programs Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. Bridges Eligibility Manual (BEM) items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement must be applied the same for every client. Local requirements may not be imposed for Medicaid Assistance (MA).
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.


Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. (Bridges Administrative Manual (BAM) 130, page 1)

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in accordance with Department policy when it cancelled Petitioner's FAP benefits because Petitioner failed to provide income verification information in the form of the completed Verification of Employment form. Petitioner was given approximately four months to provide verification that she was no longer working but failed to do so. Petitioner has not established good cause for failure to return the information to the Department. The Department's case is established by a preponderance of the evidence presented and must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LL/hb



Landis Lain
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

LaClair Winbush
17455 Grand River
Detroit, MI 48227

Wayne County (District 31), DHHS

BSC4 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]